BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JUDY ANN NOONAN)
Claimant)
VS.)
) Docket No. 241,704
CORE CARRIER CORPORATION)
Respondent)
AND)
)
LIBERTY MUTUAL INSURANCE COMPANY)
Insurance Carrier)

ORDER

Claimant appeals the preliminary hearing Order of September 21, 2000, from Administrative Law Judge Steven J. Howard. In Judge Howard's Order, claimant was granted temporary total disability compensation commencing April 13, 2000, and continuing until claimant was released to substantial and gainful employment by Lanny W. Harris, M.D.

ISSUES

Claimant contends the temporary total disability compensation granted was ordered from the wrong date. Claimant alleges entitlement to temporary total disability compensation beginning November 1, 1999. The Administrative Law Judge ordered temporary total disability compensation commencing April 13, 2000. That is the only issue before the Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds that the appeal by claimant in this matter should be dismissed.

K.S.A. 1999 Supp. 44-534a and K.S.A. 1995 Supp. 44-551 limit the rights of a party to appeal from a preliminary hearing order to situations where it is alleged that the administrative law judge exceeded his or her jurisdiction in granting or denying the relief requested at preliminary hearing. K.S.A. 1999 Supp. 44-534a allows appeals from

preliminary hearings when dealing with specific jurisdictional issues regarding whether the claimant suffered an accidental injury, whether the injury arose out of and in the course of employment, whether notice is given or claim timely made, or whether certain defenses apply.

K.S.A. 1999 Supp. 44-534a further grants the administrative law judge the jurisdiction to decide issues involving the furnishing of medical treatment and the payment of temporary total disability compensation at preliminary hearing.

Claimant argues that the Administrative Law Judge exceeded his jurisdiction by beginning temporary total disability compensation on the wrong date. Jurisdiction, however, entitles the Administrative Law Judge to decide an issue incorrectly as well as correctly. The Appeals Board finds it does not have jurisdiction to consider this issue and claimant's appeal should be dismissed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal of claimant in the above matter should be, and is hereby, dismissed, and the Order of Administrative Law Judge Steven J. Howard dated September 21, 2000, remains in full force and effect.

IT IS SO ORDERED.

Dated this	day	of	November	· 2000.
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BOARD MEMBER

c: James M. Roswold, Kansas City, MO James K. Blickhan, Overland Park, KS Steven J. Howard, Administrative Law Judge Philip S. Harness, Director